

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

ERRICK T. COLLINS,

Plaintiff,

v.

Case Number 05-10039-BC  
Honorable David M. Lawson

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT  
AND RECOMMENDATION, GRANTING DEFENDANT'S MOTION TO DISMISS,  
AND DISMISSING COMPLAINT WITHOUT PREJUDICE**

This matter is before the Court on the report and recommendation of United States Magistrate Judge Charles E. Binder to dismiss the complaint. The case was referred to the magistrate judge on an order for general case management pursuant to 28 U.S.C. § 636(b) and E.D. Mich. LR 72.1. The magistrate judge issued his report on July 18, 2005 recommending that the Court grant the defendant's motion to dismiss and dismiss the complaint because the plaintiff has failed to exhaust administrative remedies. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt # 21] is **ADOPTED**.

It is further **ORDERED** that the defendant's motion to dismiss [dkt # 8] is **GRANTED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: August 5, 2005

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means or first class U.S. mail on August 5, 2005

s/Tracy A. Jacobs  
TRACY A. JACOBS